

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

In re: PHARMACEUTICAL INDUSTRY)
AVERAGE WHOLESALE PRICE)
LITIGATION)

MDL No. 1456
Master File No. 01-12257-PBS
Subcategory Case No. 06-11337

THIS DOCUMENT RELATES TO:

Judge Patti B. Saris

Magistrate Judge Marianne B. Bowler

United States ex rel. Ven-A-Care of the)
Florida Keys, Inc. v. Schering)
Corporation, Schering-Plough)
Corporation and Warrick)
Pharmaceuticals Corporation)
 Civil Action No. 09-CV-10547)

MOTION FOR LEAVE TO AMEND

COMES NOW the RELATOR, Ven-A-Care of the Florida Keys, Inc.(the “Relator” or “Ven-A-Care”) pursuant to Federal Rule of Civil Procedure 15 and moves to amend its complaint in the above referenced action. In support, the Relator states as follows:

1. This is an action brought under the *qui tam* provisions of the federal False Claims Act, 31 U.S.C. §§ 3729, *et seq.*
2. The Relator and SCHERING CORPORATION, SCHERING-PLOUGH CORP. and WARRICK PHARMACEUTICALS CORP., (hereinafter the “DEFENDANTS”) have entered into a Settlement Agreement and requested a scheduling conference with the Court. See, *The Parties’ Joint Motion for a Scheduling Conference*, [Document 231]. As part of the Settlement Agreement, which is attached to the parties’ motion for scheduling conference as “Exhibit A” [Document 231-2], the Relator agreed that it would amend the

complaint in the above referenced matter to assert certain allegations under the federal False Claims Act prior to dismissal of the above referenced action.

3. The Amended Complaint is attached as "**Exhibit 1.**"

WHEREFORE the RELATOR requests that the Court enter an Order GRANTING this Motion and specifically providing for the relief above.

Dated: JULY 21, 2009

Respectfully submitted,
Attorneys for
the Private Person Plaintiff,
Ven-A-Care of the Florida Keys, Inc.

/s/Alison W. Simon
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CERTIFICATE OF SERVICE

I hereby certify that I have this day, July 21, 2009, caused an electronic copy of the above to be served on all counsel of record via electronic mail service by sending a copy to LexisNexis File & Serve for posting and notification to all parties.

/s/Alison W. Simon
Alison W. Simon